

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
DIVISION

FILED
US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS
Mar 21, 2019
OFFICE OF THE CLERK

Received WD/AR

MAR 18 2019

U.S. District Court
Western District of Arkansas
Office of the Clerk

Justin Roy Ford

(Enter above the full name of the Plaintiff
in this action.)

Prisoner ID No. 3932

(Do Not Put Your Social Security Number)

V.

CASE NO. 19-4031

Chris Wolcott; Robert Gentry;

Brad Stewart;

Terry Hernandez

(Enter above the full name of the Defendant,
or Defendants, in this action.)

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒

No ☐

- B. If your answer to A is yes, describe each lawsuit in the space below including the exact Plaintiff name or alias used. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this lawsuit

Plaintiffs: Justin Roy Ford

Sharon Flourney; Defendants: Chris Wolcott; Robert Gentry; David Stinson; Dana Gentry;
J.E. Bonding, Inc.; Chet Stubbs; Justin Gentry; Scott Simmons; Terry Hernandez; Steven Foltz;
Southern Health Partners;

2. Court (if federal court, name the district; if state, name the county):

U.S. District Court - Western District of Arkansas

3. Docket number: 18-4153

4. Name of judge to whom case was assigned: Barry A. Bryant

5. Disposition (for example: Was the case dismissed? Was it appealed?)

Is it still pending? Still pending

6. Approximate date of filing lawsuit: November 5, 2018

7. Approximate date of disposition: still an ongoing lawsuit

(Revised 12/2016)

In regards to section III of the 1983 Form part B of this section, is as follows. I have exhausted all grievance procedures process, both with jail administration and with medical as well. Problem is I have no access to my medical grievances and responses showing I have been on antibiotics several times and have no access to these records, but they are there as the discovery process will so.

I have also exhausted all jail administrative grievances as well, but the problem is the same as it is with medical. I have no access to these exhausted grievances and responses to them, but those to are in fact there on the kiosk machine as the discovery process will show there are several as well, but have no access to them As the jail denies all access to these.

I did succeed in getting Black mold samples out to my family, from shower, cells 1, 3 and 4 to get to the C.D.C. and on proper people to get something done with these hazardous living conditions at this jail. Those samples I got out are from A-Pod.

ON For sure grievance dates I know for sure are 8-26-18 @ 21:49:02 ~~and~~ and 11-5-18 @ 7:28:24 and 11-5-18 @ 21:34:11 and 11-6-18 @ 8:15:18 and 3-4-19 and 3-7-19 are the ones I know rest are on kiosk machine, records which I am denied. Both medical and regular grievances.

II. Place of Present Confinement: Sevier County Jail
137 West Robinson Road - DeQueen, Arkansas 71832

III. There is a written prisoner grievance procedure in the Arkansas Department of Correction and in your county jail. Failure to complete the grievance procedure may affect your case in federal court.

A. Did you present the facts relating to your complaint in the state or county written prisoner grievance procedure?

Yes ✓ No

B. If your answer is YES, Attach copies of the most recent written grievance(s)/response(s) relating to your claims showing completion of the grievance procedure. FAILURE TO ATTACH THE REQUIRED COPIES MAY RESULT IN THE DISMISSAL OF YOUR COMPLAINT. If copies are not available, list the number assigned to the grievance(s) and the approximate date it was presented. *See Attachment G in regards to exhausted grievances procedure*

C. If your answer is NO, explain why not:

C. If your answer is NO, explain why not: jurisdiction procedure

IV. Parties

(In item A below, place your name in the first blank and place your present address in the second blank.)

A. Your Full Name: Justin Roy Ford
Address: Sevier County Jail
137 West Robinson Road - De Queen, Ar. 71832

(In Item B below, place the full name of the defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.)

Do Not List Witnesses.

You may not name the jail as a Defendant. The jail is a building and cannot be sued.

B. Read carefully and fill out all information sought.

1. Defendant #1.

Full Name: Chris Wolcott

Position: Jail Administrator

Place of Employment: Sevier County Jail/Sheriff's Office

Address: 137 West Robinson Road - DeQueen, Arkansas

71832

2. Defendant #2.

Full Name: Robert Gentry
Position: Sevier County Sheriff
Place of Employment: Sevier County Sheriff's Office
Address: 137 West Robinson Rd. - DeQueen, Ar. 71832

3. Defendant #3.

Full Name: Brad Stewart
Position: Maintenance ~~Man~~ Man
Place of Employment: Sevier County Jail/Sheriff's Office
Address: 137 W. Robinson Rd - DeQueen, Ar. 71832

4. Defendant #4.

Full Name: Terry Hernandez
Position: Assistant Jail Administrator
Place of Employment: Sevier County Sheriff's Office / Jail
Address: 137 W. Robinson Rd. - DeQueen, Ar. 71832

If you need more space for additional Defendants, list the additional Defendants on another piece of paper, using the same outline.

V. At the time of the alleged incident(s), were you: Sevier County Jail
(check the appropriate blank)

☒ in jail and still awaiting trial on pending criminal charges
☐ serving a sentence as a result of a judgment of conviction
☐ in jail for other reasons (e.g., alleged probation violation, etc.)

Explain: In jail for Disorderly Conduct and
now 2nd Degree Battery

Please provide the date of your conviction or probation or parole revocation:

VI. Statement of Claim

State every ground on which you claim that one or more of the Defendants violated your federal constitutional rights. For example, if you have an excessive force claim and a denial of medical care claim, you must fill out a separate section for each different claim. This section should be limited to the facts of your claim.

With respect to each claim, briefly describe the actions taken by each Defendant who you believe was involved in violating your rights. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. (Use as much space as you need. Attach extra sheets if necessary.)

Claim Number # 1:

Type of Claim (for example, excessive force, denial of medical care, etc.):

Abuse of Power, Neglect, Cruel and unusual punishment
Poor living conditions, Intimidation, Unprofessionalism.

Date of the Occurrence: From March 17th 2018 to Date.

Name of Each Defendant involved: Chris Woleott, Terry Hernandez;
Robert Gentry, Brad Stewart

Describe the acts or omissions of the Defendant(s) that form the basis for Claim #1 and any harm caused by it.

There is Black mold in my cell where I am on 23 hour a day
lockdown. My walls are black and the odor overwhelming.
When I try to clean my wall it only spreads, I get a bad
rash and hives on my body and it only makes the odor
worse. The disinfectant spray is a joke it makes the
mold worse. Continued See Attachments A-B-C-D

With regard to Claim #1, are you suing Defendant(s) in his or her: (check the appropriate blank)

☐ official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).

☐ personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).

☒ both official and personal capacity

The Black Mold is in all the cells, Shower and A-Pod in general. I have been here 11 months and have informed several officers about it, as has the rest of the inmate population over the past 11 months. Inmates such as Clinton Moss, Terry Folis, Marcus Johnson, Trevor Hodges, Mark Hale, Dwight Matney, Brain Holden, Dustin B. Chandler, Aaron Gara, Jason Wells, ~~XXXXXXXXXX~~, Jeff Adams, Steven Kessler, Justin Indiveri, Matthew Nichols, Robert Wallis, are just some of the people that have told several officers since I have been here.

It is a violation of my rights to be housed in a contained cell being exposed long term to black mold, much less in a pod, and I have to shower with Black Mold on walls and ceiling. It drips on me from ceiling in Black Mold Drops do to the precipitation from the shower, also as I shower in the small space, the water bounces off of wall with Black Mold on it.

On 1-9-19, at approximate 9pm, Officer Terry Hernandez who is also assistant ~~XXXXXX~~ Jail Administrator did a walk through, or security round like they do every hour. At this time Terry Hernandez was shown the Black mold, and He stated "We have paint for that." You can not just cover Black Mold with paint as stated by

the assistant Jail Administrator Terry Hernandez it's still going to be there growing and getting worse, but cover it up instead of fixing it, out of sight out of mind, is not a solution. I am still exposed to it, breathing it, showering with it. I know what Black mold smells like, looks like, and the symptoms caused by it. I moved out of a place I rented for a while, because it was condemned for Black mold and no longer safe for me and my girl friend to live there.

On 1-11-19, Still at this time we are still in extremely bad infected Areas, you can smell the Black Mold. Maintenance specifically Brad Stewart came in A-Pod, where there are 5 cells infected with Black Mold so bad in cells #1 and #3 and #4 that whole sections of the walls are black. Brad Stewart came in with a mop bucket, that had water and an unknown chemical of which ~~we~~ I and other inmates were denied the name of that chemical when ~~asked~~ asked.

Maintenance MAN Brad Stewart stated on 1-11-19, that "I am going to clean it for now". For now until what! It is now twice as bad in cell three (3) which they supposedly cleaned but it's still there. He only cleaned a small section of only one black wall in cell three (3).

Continued
Attachment C From
Claim #1

Black Mold is everywhere not just in cell three (3), which is the only cell Brad Stewart of Maintenance tried to clean only a section of. There was people refusing to go in the cells at night, had 8 people in a 4 man cell the least infected cell, people were sleeping on the floor in the day room. Black Mold is everywhere, it's in the shower, all cells 1-5, it's growing on my blanket from where my blanket has no choice but to touch the wall as beds are practically on the walls. I live in cell one (1) where I got to breathe this 23 hours a day in a very small contained cell (area) with no ventilation, then when I am out of my cell for my hour a day, I got to breathe it some more as it is in A-Pod and where I have to shower.

It is in every Pod in the jail and showers espically E-Pod it's ~~now~~ worse then A-Pod where I live. I go to court with guys from E-Pod and that's all they complain about. Scrubbing it does not kill it I been here 11 months I've tried everything, nothing works, scrubbing it just spreads it more and comes back twice as bad and twice as fast, neither does painting over it, as jail staff has stated.

I have taken Black mold samples from cells and shower. I just have to find a way to get them samples out of the jail and to the C.D.C.

Continued Attachment
From claim number #1. D

I live in cell(1) in A-Pod on 23 hour a day lockdown with this Black mold on the walls, breathing in the horrible smell for over 10 months now, that's long term exposure. It does not matter that I am on lockdown as it's all in the pod as well. My cell walls sweat with water running down my walls where I sleep in black streaks all of the Black mold caked upon my walls running down to where I sleep.

It's on my blankets, I have to scrub my own walls cause it will get so bad I have to, then it kicks up the odor, it makes me itch, and I have no way to get away from it at all, let alone when I scrub it, to breathe is harmful, so I am forced ~~to~~ to inhale it these extremely harmful spores in the air that are coming off of my walls. Even if I was not on lockdown, I would still have no choice but to breathe it, as it is everywhere. It's bad if I do not scrub it and even worse when I do scrub it. It's harmful either way. I have to scrub it, if not it gets so thick I can barely breathe and I have enough problems with breathing. I have asthma, COPD, and am on an inhaler. I am faint, have dizzy spells and I am fatigued and weak. On antibiotics right now, cause of this.

The whole time I have been here, there is no ventilation, intake vents in cell do not work. This has caused me severe headaches, trouble breathing more than normal and it not only causes internal damage to my lungs from long term exposure, it has caused me nose bleeds and skin irritation. Brad Stewart (maintenance man) told Jail Administrator that it was not black mold. No samples been taken by jail so how do they know what it is. Been to medical to get antibiotics for nose and throat infection from this. As well as rash and hives from direct contact with the black mold. Been around it before that's how I know.

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

It is not policy, custom, nor legal to house me in a non-ventilated area where Black Mold is growing right next to my head where I have to sleep. It's not policy to come scrub it and make the black mold airborne with the chemicals that don't work only made it worse, while I am celled in a small space with the chemicals in the air and no ventilation. It's not policy, it's neglect, and cruel and unusual punishment as it is everywhere.

Claim Number #2:

Type of Claim (for example, excessive force, denial of medical care, etc.):

Date of the Occurrence: _____

Name of Each Defendant involved: _____

Describe the acts or omissions of the Defendant(s) that form the basis for Claim #2 and any harm caused by it.

With regard to Claim #2, are you suing Defendant(s) in his or her: (check the appropriate blank)

_____ official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).

_____ personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).

_____ both official and personal capacity

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

Claim Number # 3:

Type of Claim (for example, excessive force, denial of medical care, etc.):

Date of the Occurrence: _____

Name of Each Defendant involved: _____

Describe the acts or omissions of the Defendant(s) that form the basis for Claim #3 and any harm caused by it.

With regard to Claim #3, are you suing Defendant(s) in his or her: (check the appropriate blank)

- _____ **official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).**
- _____ **personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).**
- _____ **both official and personal capacity**

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

If you need more space for more claims, list the additional claims on another piece of paper, using the same outline.

VII. Relief

If you are seeking to recover damages from the named Defendants, check the appropriate blank or blanks below for the type or types of damages that you are seeking:

☒

Compensatory damages (designed to compensate persons for injuries, such as physical pain and suffering, etc., that are caused by the deprivation of constitutional rights)

☒

Punitive damages (designed to punish a defendant for engaging in misconduct and deter a defendant and others from engaging in such misconduct in the future)

State briefly below any other relief you are seeking in this action. Make no legal arguments. Cite no cases or statutes.

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

• Executed this 9th day of March 20 19.

Justin Roy Ford
Printed Name of Plaintiff

Justin Roy Ford
Signature of Plaintiff

Justin Roy Ford
137 West Robinson Rd.
Sevier County Jail
DeQueen, Ar. 71832



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